THE HON'BLE SRI JUSTICE K.C.BHANU

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Writ Petition No.15861 of 2005

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Dated 30-09-2005

Between:

Syed Hasan Ahmed Hussainy,

S/o S.A.Hussainy, aged 36 years,

R/o Mansoornagar, Nellore. .. Petitioner

and

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The Sub Divisional Police Officer,

Nellore Division at Nellore .. Respondents

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THE HON'BLE SRI JUSTICE K.C.BHANU

Writ Petition No.15861 of 2005

ORDER:

The instant writ petition is filed seeking a writ of *Mandamus* to declare the action of the respondents in not closing down the rowdy sheet opened against the petitioner as wholly illegal and arbitrary and to direct the respondents to forthwith review the case of the petitioner and close the rowdy sheet opened in his name.

The petitioner has filed his sworn affidavit in support of the writ petition. It is averred in the affidavit that the respondents have opened a rowdy sheet against the petitioner in the year 2001 on the ground that there were two cases pending against the petitioner. In both the cases charge sheets were filed and the cases were committed to the Courts and the petitioner was acquitted in both the cases. It is further averred that despite of his requests to the second respondent, the Inspector of Police, Nellore town, to close down the rowdy sheet against him, as there were no pending cases against him, the second respondent has kept a deaf ear. It is also further averred that since the year 2000 petitioner's case has not been reviewed, much less after disposal of the cases acquitting the petitioner from the charges.

The respondents have filed their counter-affidavit. It is stated in the counter-affidavit that petitioner is regularly indulging in acts of violence and creating nuisance and law and order problem and so, the second respondent has obtained permission from the Sub-Divisional Police Officer, Nellore, to open a rowdy sheet against the petitioner so as to check his activities and movements. It is further submitted that pursuant to the permission granted, a rowdy sheet against the petitioner was opened on 24-01-2001 and the same is being continued from time to time and it stands extended up to 31-12-2005. It is further stated that there are no cases pending against the petitioner on the file of the second respondent police station limits. It is also further stated that if the illegal activities of the petitioner are not curtailed, there is every likelihood of breach of peace and tranquility.

The learned counsel for the petitioner vehemently contended that no case is pending as against the petitioner and all the three cases were ended in acquittal and therefore, continuation of rowdy sheet is nothing but interfering with the personal liberty of the petitioner and hence he prays to close down the rowdy sheet opened against the petitioner.

On the other hand, the learned Government Pleader for Home opposed the same on the ground that if the illegal activities of the petitioner are not curbed, there is every likelihood of breech of peace and tranquility and hence he prays to dismiss the writ petition.

Even according to the counter-affidavit filed by the respondents, no case is pending as against the petitioner on the file of the second respondent police station. The

rowdy sheet was opened in the year 2001 and it is extended from time to time and it stands extended up to 31-12-2005. If the conditions in the Standing Order 742 are fulfilled, there will not be any difficulty in opening or continuing the rowdy sheet.

It is relevant to extract Standing Order 742, which reads as under:

> "Rowdies: (1) The following persons may be classified as rowdies and Rowdy Sheets (Form 88) may be opened for them under the order of the Superintendent of Police or Sub-Divisional Officer.
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> a. Persons who habitually commit, attempt to commit or abet the commission of offences involving a breach of the peace;
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> b. persons bound over under Sections 106, 107, 108(c) and 110(1) of the Code of Criminal Procedure, 1973 (Act No.2 of 1974);
>
> c. persons who have been convicted more than once in two consecutive years under Sections 75 of the Madras City Police Act or under Section 3, Clause (12) of the Town Nuisances Act;
>
> d. persons who habitually tease women and girls by passing indecent remarks or otherwise; and
>
> e. in the case of rowdies residing in an area under one Police Station but are, found to be frequently visiting the area under one or more other Police Stations, their rowdy sheets can be maintained at all such Police Stations."

The only ground on which the rowdy sheet is being extended from time to time is that if the illegal activities of the petitioner are not curbed, there is every likelihood of breach of peace and tranquility. What are those illegal activities are not stated in the counter-affidavit. Since none of the conditions in Standing Order 742 attracts the present case, the rowdy sheet opened against the petitioner shall have to be closed down.

The Writ Petition is accordingly allowed directing the respondents to close the rowdy sheet against the petitioner. However, this order will not preclude the respondents for opening the rowdy sheet in future, if the case of the petitioner attracts any of the conditions of the Standing Order 742. No order as to costs.

K.C.BHANU, J.

30th September, 2005.

Note: Issue C.C. in one week.

B/O

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